

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
Eastern Division

EDWARD WIEGAND, <i>et al.</i> , etc.,	)	
	)	
Plaintiffs,	)	
	)	Case No. 4:22-cv-00188 HEA
vs.	)	
	)	Jury Trial Demanded
NEW YORK LIFE INSURANCE	)	
& ANNUITY CORPORATION, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**PLAINTIFFS' MOTION ABOUT STIPULATIONS**

Defendants filed a “Defendants’ Proposed Case Summary” [Doc. 83] that they ask “be read to the jury.”

A party’s case summary that is read to the jury is not a thing in the federal courts. However, federal courts do recognize stipulations of fact that are read to the jury and treated as uncontested facts for all purposes. Indeed, the Fifth Amended Case Management Order in this case [Doc. 53], directed the parties to:

Stipulation: Meet and jointly prepare and file with the Clerk a JOINT Stipulation of all uncontested facts, which may be read into evidence subject to any objections of any party set forth in said stipulation (including a brief summary of the case which may be used on Voir Dire).

[Doc. 53 at 2].<sup>1</sup>

Plaintiffs attach a marked-up version of defendants' proposed case summary in which the portions to which plaintiffs do not stipulate are struck out in red. Plaintiffs suggest that the remaining (not marked out) text in *defendants' proposal* could be read to the jury as the parties' joint stipulation of fact. We know that all of this text is text that defendants proposed should be read to the jury. Plaintiffs agree that this text should be read to the jury. To plaintiffs, this sounds like a stipulation.

WHEREFORE, plaintiffs move that the court order the parties to submit a set of stipulated facts to be read into evidence that tracks defendants' proposed case summary with all of the material struck out by plaintiffs removed, as shown by the exhibit to this motion.

---

<sup>1</sup> Plaintiffs attempted to negotiate stipulated facts with defendants, offering a proposed set of "non-controversial" stipulations October 23, 2023. Defendants responded, adding numerous additional facts, many of which were controversial, October 26. Plaintiffs responded the next day, accepting some and rejecting others of defendants' proposed additional facts. Defendants terminated the discussions October 30, stating that it appeared that the parties would not be able to agree on stipulated facts.

Defendants' proposed statement to the jury effectively tracks their October 26 counter-proposal on stipulated facts.

sRespectfully submitted,

Jacobson Press P.C.

By: /s/ Joe D. Jacobson  
Joe D. Jacobson #33715  
222 South Central Avenue, Suite 550  
Clayton, MO 63105  
Tel: (314) 899-9789  
Direct: (314) 899-9790  
Fax: (314) 899-0282  
Email: Jacobson@ArchCityLawyers.com

Attorneys for plaintiffs Edward  
Wiegand and Eugenia Sprich

#### CERTIFICATE OF SERVICE

The filing attorney certifies that copies of this document and the three attached exhibits were served on each counsel of record participating in the court's electronic case filing (ECF) system by filing this document through the ECF system on November 1, 2023.